

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:
MULCAIRE-JONES, George

Serial No.: 10/783,647

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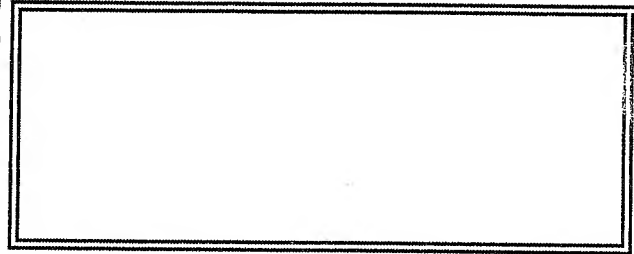
For: "APPARATUS AND METHOD OF
FERTILITY AWARENESS"

) Group Art Unit: 3736

) Examiner: HOEKSTRA, Jeffrey Gerben

) RULE 132 DECLARATION OF

) Mary Finnigan
) (37 C.F.R. §1.132)



Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madam:

I, Mary Finnigan, residing at 52 Cedar Street Walpole Massachusetts, declare as follows:

1. I am the director of the Archdiocese of Boston Natural Family Planning Program which provides education and support for natural family planning services in Boston and surrounding areas. The Resume included as Exhibit A to this declaration summarizes my qualifications and experience.

2. Based upon my qualifications and experience, I consider myself one skilled in the art of fertility awareness.

3. I have reviewed and considered the above-referenced pending application, including the pending claims, an Office Action dated December 9, 2008 issued by the United States Patent and Trademark Office (the "Office Action") and U.S. Patent No. 6,747,917 issued to Jennings et al. (hereafter "Jennings") and relied upon by the Patent Examiner in the Office Action to reject the pending Claims.

4. Based upon my review, I have observed that Jennings is not suitable for many women who wish to use natural means of fertility awareness. This is due to the Jennings device being a calendar-day method that does not account for variations in women's cycles and does not allow for observations and recordings for such things as cervical mucus and dryness, all of which are essential elements of fertility awareness. Jennings specifically teaches its device is only to be used for women

with regular cycles from 26 to 32 days and is not to be used for women with irregular cycles, those who are breast feeding and may not experience a cycle, and those who have cycle lengths outside the 26 to 32 day range.

5. Based upon my review, I have observed that Jennings also does not attain several advantages achieved by the claimed invention, which allows the claimed invention to be used for all women not just those with regular cycles. The claimed invention advantages, among others, are the ability to record differing daily observations and variations for such things as menstrual bleeding, cervical mucus and dryness. Thus, a woman using the claimed invention must know how to observe biological markers during menstrual cycles that can vary from month to month. Each menstrual cycle is recorded anew by positioning the appropriate bead to match the daily observation. This is accomplished through the use of a plurality of unique and distinct beads (many more than in Jennings) with various shapes, colors and sizes, some of which are also considered bio-markers. Furthermore, the claimed invention allows for use of a bio-marker in the form of observing and recording of the LH surge detected by an ovulation prediction kit. When the woman's monthly cycle is over for those using the claimed invention, the beads are removed from their current position and are ready for a new cycle to begin, which can become a totally different configuration depending on daily observations. Unlike the Jennings device, the claimed invention relies on a number of bio-markers for tracking the fertile and infertile phases of a woman cycle. Meanwhile, the user of the Jennings device simply records calendar days on a pre-figured set of beads in which sets of identical beads in size, color and shape are arranged adjacent to each other in predetermined clusters that represent periods of fertility or infertility based upon statistical probabilities. While easily taught and understood, the user does not have to be schooled in the biological specifics of a menstrual cycle. Jennings may work for a majority of women with regular and normal cycles, but for a particular woman at a particular time Jennings may not, in fact, be accurate. The claimed invention fills this void with additional accuracy and confidence.

6. Based upon my review, I conclude that no reasonable rationale exists for one skilled in the art of fertility awareness to modify Jennings to conform to the claimed invention because Jennings specifically teaches only the use of calendar days and does not provide any means to observe, interpret or record variations in bleeding, cervical mucus, dryness or an LH surge. Unlike Jennings, the claimed invention does not rely on a pre-figured constellation of beads in designated sets, but rather requires a woman to create a new, daily record of her menstrual cycle by positioning on a string a specific bead selected and based upon a specific observation for each day of her cycle.

7. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I understand that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of this patent application or any patent issuing thereon.

Respectfully submitted,

Date: March 31, 2009

By: Mary Finnigan
Mary Finnigan

EXHIBIT A

MARY ELIZABETH FINNIGAN

52 Cedar Street
Walpole, Massachusetts 02081

WORK EXPERIENCE

**1999- Present Natural Family Planning Office/Archdiocese of Boston
Braintree, MA**

DIRECTOR

- Train Natural Family Planning Teachers
- Write program manual, *Living Together With Your Fertility*
- Develop teaching aids and client materials
- Teach Natural Family Planning Seminar in Nurse Practitioner Program, Boston College School of Nursing (annual seminar)
- Present Natural Family Seminar at Archdiocesan Seminaries (annual seminar)

1991-Present NATURAL FAMILY PLANNING INSTRUCTOR

- Teach Archdiocesan Natural Family Planning Program

1995 – 1999 Fertility Awareness Services, Walpole, MA

DIRECTOR

- Taught Fertility Awareness Program
- Wrote program manual, *Fertility Awareness Manual*
- Developed client materials

EDUCATION

- **Youth Ministry Graduate Certificate/** LaSalle University, Philadelphia, PA
- **B.A., History/French,** College of the Holy Cross, Worcester, MA

NATURAL FAMILY PLANNING INSTRUCTOR CERTIFICATIONS

- **Natural Family Planning Instructor (Sympto-Thermal Method),** New England Natural Family Planning Association, Boston, MA
- **Natural Family Planning Instructor (Sympto-Thermal Method),** National Conference of Catholic Bishops, Washington, DC

MARY ELIZABETH FINNIGAN
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NATURAL FAMILY PLANNING INSTRUCTOR TRAINING PROGRAMS COMPLETED

- **Natural Family Planning Instructor Training Program (Billings Method)**, Billings Ovulation Method of America, St. Cloud, MN
- **Natural Family Planning Instructor Training Program (Standard Days Method)**, Institute of Reproductive Health, Georgetown University, Washington, DC
- **Natural Family Planning instructor Training Program (Two Day Method)**, Institute of Reproductive Health, Georgetown University, Washington, DC

NATURAL FAMILY PLANNING VOLUNTEER WORK

2008-Present CRUDEM Family Life Center, Milot, Haiti

NATURAL FAMILY PLANNING INSTRUCTOR

- Teach Bead System of Fertility Literacy

PROFESSIONAL MEMBERSHIPS

Past– President, New England Natural Family Planning Association, Boston, MA